

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

JESUS P GARZA,

Plaintiff,

VS.

BRENDA CHANEY, *et al*,

Defendants.

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CIVIL ACTION NO. C-07-313

**ORDER ADOPTING MEMORANDUM AND RECOMMENDATION
TO DISMISS CERTAIN CLAIMS AND TO RETAIN CASE**

On August 24, 2007, United States Magistrate Judge Brian L. Owsley signed a Memorandum and Recommendation recommending as follows:

1) that pursuant to plaintiff's oral motion, Warden Chaney be dismissed as a defendant and Assistant Warden Mundy be substituted as a defendant;

2) that plaintiff's Eighth Amendment claim of deliberate indifference to serious medical needs against Dr. Cornada be retained and service ordered on this defendant; and

3) that plaintiff's remaining claims against the remaining defendants be dismissed with prejudice for failure to state a claim and as frivolous. 28 U.S.C. §§ 1915(e)(2)(B), 1915A(b)(1).

Seeing no objection to this recommendation by either party and having now reviewed the recommendation, this Court hereby adopts as its own the Memorandum and Recommendation as the decision of the Court. Accordingly, it is ORDERED as follows:


1) Warden Chaney is dismissed as a defendant and Assistant Warden Mundy is substituted as a defendant;

2) plaintiff's Eighth Amendment claim of deliberate indifference to serious medical needs against Dr. Cornada is retained and service ordered on this defendant; and

3) plaintiff's remaining claims against the remaining defendants are dismissed with prejudice for failure to state a claim and as frivolous.

The clerk shall enter this order and provide a copy to all parties.

SIGNED and ORDERED this 13th day of December, 2007.



Janis Graham Jack
United States District Judge